

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested. Claims 1-8, 10-17 and 19-26 are pending, Claims 1-8, 10-17, 19 and 20, have been amended and new Claims 25-26 having been added by way of the present amendment. New Claims 25-26 find support in originally filed Claims 5 and 6 and the specification, and thus no new matter is added.

In the outstanding Office Action the specification was objected to for failing to include an Abstract; Claim 8 was objected to as being in improper form; Claims 1-2 and 14-16 were rejected as being anticipated by Benveniste (U.S. Patent No. 6,496,699); Claims 1-4, 6-7, 14-19 were rejected as being anticipated by Weaver (U.S. Patent No. 5,584,049) and Claims 5, 9-13 and 20-24 were indicated as containing allowable subject matter.

Applicants appreciatively acknowledge the identification of allowable subject matter.

In reply, Applicants traverse the objection to the specification for failing to include an Abstract, because an Abstract was included in the originally filed patent application. For the Examiner's convenience, a copy of page 36 of the specification (including the Abstract) is attached hereto. If for whatever reason the Office's file does not include this Abstract, the undersigned appreciatively requests the Examiner to add the attached Abstract by way of Examiner's Amendment.

Claim 8 has been amended to depend from only Claim 1, and therefore the objection to Claim 1 is now moot.

Before turning to the rejection based on prior art references, it should be noted that the subject matter of Claim 9 (indicated in the Office Action as containing allowable subject matter) has been incorporated into amended Claim 1. Furthermore, Claim 2 has been amended to depend from Claim 1. Therefore, Claims 2-8 and 10-13 now all depend from Claim 1, which includes the subject matter of Claim 9. Accordingly, it is respectfully

submitted that Claims 1-8 and 10-13 as amended, patentably define over the asserted prior art.

The subject matter of original Claim 5 has been added to independent Claims 14 and 15. Therefore, it is respectfully submitted that independent Claims 14 and 15 as amended, as well as Claims 16-17 and Claim 19, which depend from amended Claim 15, patentably define over the asserted prior art.

Claim 20 has been written in independent form, in view of the allowable subject matter contained in Claim 20, as recognized in the outstanding Office Action. Because Claims 21-24 depend from amended Claim 20 it is respectfully submitted that these claims also patentably define over the asserted prior art.

Claims 25 and 26 have been added as independent forms of original Claims 5 and 6.

With regard to new Claim 25, it is respectfully submitted that this claim patentably defines over the asserted prior art, in view of the fact that it includes the subject matter of Claim 5 was indicated as including allowable subject matter.

Claim 26 is directed to a communication apparatus including a part that autonomously forms a zone as a service area of the base station. The apparatus also includes a zone determining part which determines the zone of the base station on the basis of a receive quality of a signal received from a surrounding base station. The zone determining part includes a part which measures a bit error rate or packet error rate from information sent from the surrounding base station to the base station, and a part that determines the zone according to a result of the measurement of the bit error rate or packet error rate.

It is believed that Weaver, does not teach or suggest the invention of Claim 26, because the bit error rate detection in Weaver is based on a communication between the mobile unit and the base station. (Weaver, column 3, lines 3-11). Moreover, Weaver explains that if a signal transmitted by a mobile unit arrives at the base station receiver at a

power level that is too low, the bit-error-rate may be too high to permit high quality communications due to interference from the other mobile units.

In contrast, Claim 26 is directed to a device that has a zone determining part that determines the zone of the base station on the basis of receive quality of a signal received from a surrounding base station. Furthermore, Claim 26 includes a part that measures the bit error rate or packet error rate from information sent from said surrounding base station. Thus, the apparatus in Claim 26 is structurally and functionally different than that described in Weaver, as the device in Weaver determines bit-error-rate regarding communication between the mobile unit and the base station, while in Claim 26, the zone determining part determines the zone on the basis of received quality of a signal received from a surrounding base station. Consequently, it is respectfully submitted that Weaver does not teach or suggest all the elements of Claim 26 and therefore Claim 26 patentably defines over the asserted prior art.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-8, 10-17 and 19-26 is patentably distinguishing over the prior art. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

ABSTRACT

An autonomous zone forming method of
autonomously forming a zone which is a service area
5 of a base station in a wireless communication system
having the base station is provided. In the method,
it is detected that a zone is newly formed around
the base station, and a zone which is the service
area of the base station is autonomously changed
10 according to a newly formed zone. When determining
the zone, receive quality of a signal received from
a surrounding base station is used. In addition, a
congestion state of a surrounding base station of
the base station is detected, and a zone which is
15 the service area of the base station is enlarged to
the direction of the surrounding base station
according to the congestion state.